

**PROPOSED REGULATION OF THE
STATE ENVIRONMENTAL COMMISSION**

P2019-04

July 24, 2019

EXPLANATION – Matter in *italics* is new; matter in brackets ~~[omitted material]~~ is material to be omitted; matter in *italics* are changes made following the LCB review.

AUTHORITY: §§1 and 2, NRS 445B.210.

A PERMANENT REGULATION relating to air pollution; revising provisions governing permitting fees and providing other matters properly relating thereto.

Section 1. Chapter 445B of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 4, inclusive, of this regulation.

Sec. 2. *“Applicability determination” is the technical review of the emission units for a stationary source that is performed to determine if the stationary source qualifies as a Class II source as defined in accordance with NAC 445B.037 for which an application must be submitted.*

Sec. 3. *An “Administrative renewal of an operating permit” may be made for an existing Class I or Class II operating permit if:*

- (a) The renewal is made for a new or renewed operating permit that was issued on or after January 1, 2018;*
- (b) The renewal does not require changes to the existing operating permit; and*
- (c) At the time of the operating permit renewal request, the Director determines that an environmental evaluation submitted within five years of the request is deemed adequate.*

Sec. 4. NAC 445B.327 is hereby amended to read as follows:

NAC 445B.327 Fees; late penalty. ~~(NRS 445B.210, 445B.300)~~

1. Except as otherwise provided in this section, if a stationary source is not subject to the permitting requirements of 40 C.F.R. § 52.21, as adopted by reference in NAC 445B.221, the fees for an operating permit are as follows:

| | |
|---|-----------------------|
| (a) Class I operating permit to construct..... | —————\$20,000 |
| (b) Conversion of an operating permit to construct into a Class I operating permit involving only one phase..... | —————5,000 |
| (c) Conversion of an operating permit to construct into a Class I operating permit involving two or more phases (per phase)..... | —————5,000 |
| (d) Modification to an operating permit to construct..... | —————5,000 |
| (e) Revision of an operating permit to construct..... | —————5,000 |

| <i>The number of Emission Units, including the number of Insignificant Activities^A (NAC 445B.288)</i> | <i>New operating permit^B</i> | <i>Revision to an existing operating permit^B</i> |
|--|---|---|
| <i>Less than or equal to 10</i> | <i>\$40,000</i> | <i>\$10,000</i> |
| <i>11-20</i> | <i>\$45,000</i> | <i>\$15,000</i> |
| <i>21-50</i> | <i>\$50,000</i> | <i>\$20,000</i> |
| <i>51-100</i> | <i>\$55,000</i> | <i>\$25,000</i> |
| <i>Greater than 100</i> | <i>\$60,000</i> | <i>\$30,000</i> |

Note:

Note A: This number is calculated based on the number of emission units, which includes the number of insignificant activities in the operating permit application.

Note B: This application fee includes a non-refundable, 10% fee to determine if the application is complete in accordance with NAC 445B.3364.

| | |
|--|--------------------------|
| <i>(b) Conversion of an operating permit to construct into a Class I operating permit.....</i> | <i>5,000</i> |
| <i>{(f)}(c) Class I operating permit[.....</i> | <i>30,000</i> |
| <i>(g) Significant revision of a Class I operating permit.....</i> | <i>20,000</i> |
| <i>(h) Minor revision of a Class I operating permit.....</i> | <i>5,000</i> |
| <i>(i) Renewal of a Class I operating permit.....</i> | <i>5,000</i> |

| <i>The number of Emission Units, including the number of Insignificant Activities^A</i> | <i>New operating permit^B</i> | <i>Minor revision to an existing operating permit^B</i> | <i>Significant revision to an existing operating permit^B</i> | <i>Renewal of an operating permit^B</i> | <i>Administrative renewal^B</i> | <i>Administrative revision</i> |
|---|---|---|---|---|---|--------------------------------|
| <i>Less than or equal to 10</i> | <i>\$35,000</i> | <i>\$10,000</i> | <i>\$35,000</i> | <i>\$30,000</i> | <i>\$5,000</i> | <i>\$1,000</i> |
| <i>11-20</i> | <i>\$40,000</i> | <i>\$15,000</i> | | <i>\$35,000</i> | | |
| <i>21-50</i> | <i>\$45,000</i> | <i>\$20,000</i> | | <i>\$40,000</i> | | |
| <i>51-100</i> | <i>\$50,000</i> | <i>\$25,000</i> | | <i>\$45,000</i> | | |
| <i>Greater than 100</i> | <i>\$55,000</i> | <i>\$30,000</i> | | <i>\$50,000</i> | | |

Note:

Note A: This number is calculated based on the number of emission units, which includes the number of insignificant activities in the operating permit application.

Note B: This fee includes a non-refundable, 10% fee to determine if the application is complete in accordance with NAC 445B.3395, 445B.3425, and 445B.3443.

| | |
|--|-------------------------|
| <i>{(j)}(d) Class II operating permit[.....</i> | <i>3,000</i> |
| <i>(k) Revision of a Class II operating permit.....</i> | <i>2,000</i> |
| <i>(l) Renewal of a Class II operating permit.....</i> | <i>2,000</i> |

| <i>The number of Emission Units, including the number of Insignificant Activities^A</i> | <i>New operating permit^B</i> | <i>Revision to an existing operating permit^B</i> | <i>Renewal of an operating permit^B</i> | <i>Administrative Renewal^B</i> |
|---|---|---|---|---|
| <i>Less than or equal to 10</i> | <i>\$5,000</i> | <i>\$2,500</i> | <i>\$2,500</i> | <i>\$2,000</i> |
| <i>11-20</i> | <i>\$10,000</i> | <i>\$5,000</i> | <i>\$5,000</i> | |
| <i>21-50</i> | <i>\$15,000</i> | <i>\$7,500</i> | <i>\$7,500</i> | |
| <i>51-100</i> | <i>\$20,000</i> | <i>\$10,000</i> | <i>\$10,000</i> | |
| <i>Greater than 100</i> | <i>\$30,000</i> | <i>\$15,000</i> | <i>\$15,000</i> | |

Note:

Note A: This number is calculated based on the number of emission units, which includes the number of insignificant activities in the operating permit application.

Note B: This fee includes a non-refundable, 10% fee to determine if the application is complete in accordance with NAC 445B.3457 and 445B.3473.

~~[(m)](e) Class II general permit.....~~

~~500~~

| <i>Permit Type</i> | <i>New operating permit</i> | <i>Revision to an existing operating permit</i> |
|---|-----------------------------|---|
| <i>Class II General for Temporary Stationary Source</i> | <i>\$1,500</i> | <i>N/A</i> |
| <i>Class II General for Stationary Source</i> | <i>\$500</i> | <i>\$250</i> |

~~[(n)](f) Surface area disturbance permit.....~~

~~500~~

~~(e) Revision of a surface area disturbance permit.....~~

~~200~~

| <i>Total acres disturbed</i> | <i>New permit</i> | <i>Renewal of a permit</i> | <i>Revision to an existing permit</i> |
|--|-------------------|----------------------------|---------------------------------------|
| <i>5 or more acres but less than 20 acres</i> | <i>\$1,000</i> | <i>\$1,000</i> | <i>\$500</i> |
| <i>20 or more acres but less than 100 acres</i> | <i>\$2,000</i> | <i>\$2,000</i> | |
| <i>100 or more acres but less than 500 acres</i> | <i>\$3,000</i> | <i>\$3,000</i> | |
| <i>500 or more acres</i> | <i>\$5,000</i> | <i>\$5,000</i> | |

~~[(p) Administrative amendment of an operating permit.....~~

~~200~~

~~(q) Replacement of a lost or damaged operating permit to construct or an operating permit.....~~

~~200~~

~~(r) Request for change of location of an emission unit.....~~

~~100~~

~~(s) Administrative revision to a Class I operating permit.....~~

~~500~~

~~(g)~~ Class I operating permit to construct for the approval of a plantwide applicability limitation..... 20,000

↳ An applicant must pay the entire fee when the applicant submits the application to the Director.
~~[2. The fee to revise an operating permit so that the operating permit is consistent with any guidelines established by the Division of Environmental Protection of the State Department of Conservation and Natural Resources pursuant to NAC 445B.255 is \$1,000. An applicant must pay the entire fee when the applicant submits an application to the Director.]~~

~~[3.]~~2. Except as otherwise provided in this section, if a stationary source is subject to the permitting requirements of 40 C.F.R. § 52.21, as adopted by reference in NAC 445B.221, the owner or operator of that stationary source must obtain an operating permit. The fees for such an operating permit are as follows:

- ~~— (a) Operating permit for a stationary source subject to the program for the prevention of significant deterioration of air quality..... — \$50,000~~
- ~~— (b) Revision of an operating permit for a stationary source subject to the permitting requirements of 40 C.F.R. § 52.21 to authorize a major modification of the stationary source..... — 50,000~~
- ~~— (c) Class I operating permit to construct..... — 50,000~~
- ~~— (d) Conversion of an operating permit to construct into a Class I operating permit involving only one phase..... — 5,000~~
- ~~— (e) Conversion of an operating permit to construct into a Class I operating permit involving two or more phases (per phase)..... — 5,000~~
- ~~— (f) Revision of an operating permit to construct..... — 5,000~~
- ~~— (g) Administrative amendment of an operating permit or operating permit to construct..... — 200~~
- ~~— (h) Replacement of a lost or damaged operating permit to construct or an operating permit..... — 200~~
- ~~— (i) Request for the change of location of an emission unit..... — 100}~~

| | |
|---|-----------------|
| <i>New operating permit^A</i> | <i>\$80,000</i> |
| <i>Major modification to an existing operating permit^A</i> | <i>80,000</i> |
| <i>New operating permit to construct^A</i> | <i>80,000</i> |
| <i>Operating permit to construct revision^A</i> | <i>20,000</i> |
| <i>Conversion of an operating permit to construct into a Class I operating permit</i> | <i>20,000</i> |
| <i>Administrative revision to a Class I operating permit</i> | <i>1,000</i> |

~~— (j) Administrative revision to a Class I operating permit..... — 500}~~

Note:

Note A: This fee includes a non-refundable, 10% fee to determine if the application is complete in accordance with NAC 445B.3364 and 445B.3395.

↳ An applicant must pay the entire fee when the applicant submits the application to the Director.
~~[4. If no changes need to be made to convert an operating permit to construct into a Class I operating permit, no fee will be assessed.~~

~~5. Except as otherwise provided in this subsection, the annual fee based on emissions for a Class I stationary source is \$16 per ton times the total tons of each regulated pollutant emitted~~

during the preceding calendar year. The annual fee based on emissions does not apply to emissions of carbon monoxide or emissions of greenhouse gases.

6. To determine the fee set forth in subsection 5:

(a) Emissions must be calculated using:

(1) The emission unit's actual operating hours, rates of production and in place control equipment;

(2) The types of materials processed, stored or combusted; and

(3) Data from:

(I) A test for emission compliance;

(II) A continuous emission monitor;

(III) The most recently published issue of *Compilation of Air Pollutant Emission Factors*, EPA Publication No. AP-42; or

(IV) Other emission factors or methods which the Director has validated; or

(b) If paragraph (a) does not apply to a stationary source that was in operation during the preceding calendar year, emissions must be calculated using the permitted allowable emissions for that stationary source.

7.3. Except as otherwise provided in this section, the annual fee for maintenance of a stationary source *for the right to operate* is:

(a) For a Class I source qualifying as:

(1) A major stationary source that is issued *one or more Class I operating permits or Class I operating permits to construct* [a prevention of significant deterioration permit]..... \$30,000] \$60,000

(2) A major stationary source that is not issued a prevention of significant deterioration permit..... —25,000

(3)(2) A major source *or Class II source* that is not a major stationary source [and]that is issued [a]one or more Class I operating permits *or Class I operating permits to construct*..... —[20,000]40,000

(4)(3) A major source *or Class II source* that is not a major stationary source [and]that is issued [a]one or more Class I operating permits *or Class I operating permits to construct* for a municipal solid waste landfill..... [15,000]25,000

(b) For a Class II source, [that has the potential to emit:] *the annual fee for maintenance is the sum of the potential to emit annual fee for maintenance, the surface area disturbance annual fee for maintenance, and the number of emission units annual fee for maintenance for which the facility qualifies.*

(1) Eighty tons or more per year but less than 100 tons per year of any one regulated air pollutant except carbon monoxide..... —5,000

(2) Eight tons or more per year but less than 10 tons per year of any single hazardous air pollutant..... —5,000

(3) Twenty tons or more per year but less than 25 tons per year of any combination of hazardous air pollutants..... —5,000

(4) Fifty tons or more per year but less than 80 tons per year of any one regulated air pollutant except carbon monoxide..... —3,000

(5) Twenty five tons or more per year but less than 50 tons per year of any one regulated air pollutant except carbon monoxide..... —1,000

(6) Less than 25 tons per year of any one regulated air pollutant except carbon monoxide..... —500]

| <i>Potential To Emit (NAC 445B.138)</i> | <i>Maintenance fee</i> |
|---|------------------------|
| <i>Any single hazardous air pollutant: 8 or more tons per year but less than 10 tons per year</i> | <i>\$10,000</i> |
| <i>All hazardous air pollutants combined: 20 or more tons per year but less than 25 tons per year</i> | |

(1) If the table above does not apply, the potential to emit annual fee for maintenance is determined using the potential to emit of the highest single regulated pollutant, excluding carbon monoxide and carbon dioxide, as follows:

| <i>Potential To Emit (NAC 445B.138)</i> | <i>Maintenance fee</i> |
|---|------------------------|
| <i>Less than 25 tons per year</i> | <i>\$1,000</i> |
| <i>25 or more tons per year but less than 50 tons per year</i> | <i>\$2,000</i> |
| <i>50 or more tons per year but less than 80 tons per year</i> | <i>\$6,000</i> |
| <i>80 or more tons per year but less than 100 tons per year</i> | <i>\$10,000</i> |

| <i>Surface area disturbance</i> | <i>Maintenance fee</i> |
|--|------------------------|
| <i>5 or more acres but less than 20 acres</i> | <i>\$1,000</i> |
| <i>20 or more acres but less than 100 acres</i> | <i>\$2,000</i> |
| <i>100 or more acres but less than 500 acres</i> | <i>\$3,000</i> |
| <i>500 or more acres</i> | <i>\$5,000</i> |

| <i>Number of emission units, excluding the number of Insignificant Activities</i> | <i>Maintenance fee</i> |
|---|------------------------|
| <i>Less than or equal to 10</i> | <i>\$500</i> |
| <i>11-20</i> | <i>\$1,000</i> |
| <i>21-50</i> | <i>\$2,000</i> |
| <i>51-100</i> | <i>\$5,000</i> |
| <i>Greater than 100</i> | <i>\$10,000</i> |

(2) For a Class II source, if the annual fee for maintenance exceeds \$15,000,

(I) The annual fee for maintenance issued for the fiscal year beginning on July 1, 2020 shall be thirty-three percent of the fee for which the facility qualifies;

(II) The annual fee for maintenance issued for the fiscal year beginning on July 1, 2021 shall be sixty-six percent of the fee for which the facility qualifies;

(III) The annual fee for maintenance issued for the fiscal year beginning on July 1, 2022, and for each fiscal year thereafter, the annual fee for maintenance shall be one hundred percent of the fee for which the facility qualifies.

(c) For a Class II source that is issued a Class II general *operating* permit.....

500

(d) If a stationary source holds a Class I operating permit and a Class II operating permit, the source is only responsible for the Class I fee for maintenance.

~~[(d)](e)~~ For a Class III source..... 250

~~[(e)](f)~~ For a surface area disturbance permit for a total disturbance of:

| | |
|--|----------------|
| <i>5 or more acres but less than 20 acres</i> | <i>\$1,000</i> |
| <i>20 or more acres but less than 100 acres</i> | <i>\$2,000</i> |
| <i>100 or more acres but less than 500 acres</i> | <i>\$3,000</i> |
| <i>500 or more acres</i> | <i>\$5,000</i> |

~~[(1) Five or more acres but less than 20 acres..... 250~~

~~[(2) Twenty or more acres but less than 50 acres..... 500~~

~~[(3) Fifty or more acres but less than 100 acres..... 750~~

~~[(4) One hundred or more acres but less than 200 acres..... 1,000~~

~~[(5) Two hundred or more acres but less than 500 acres..... 2,000~~

~~[(6) Five hundred or more acres..... 5,000~~

[(f)](g) For a Class IV source..... 50

~~[(8) The fee for conducting an informal review of a proposed new major source or proposed modification of an existing major source pursuant to NAC 445B.2915 is \$50,000.~~

~~9.4.~~ The annual fee for maintenance of a stationary source for the fiscal year during which ~~[(an)]a new~~ operating permit or ~~[(an)]a new~~ operating permit to construct is issued for the stationary source is included in the fee for the operating permit or operating permit to construct.

~~[(10)]5.~~ Except as otherwise provided in this section, the fees relating to emission reduction credits are as follows:

(a) Determination of an application for an emission reduction credit..... \$10,000

(b) Request for the transfer of an emission reduction credit..... 2,000

(c) Request for the redemption of an emission reduction credit..... 2,000

(d) Administration of a reciprocity request for an emission reduction credit..... 1,000

(e) Determination review of a reciprocity request for an emission reduction credit..... 9,000

↳ An applicant must pay the entire fee when the applicant submits an application or request to the Director. A fee may be assessed only once for each application or request regardless of the number of emission reduction credits contained within the application or request.

6. Except as otherwise provided in this section, the fees for application processing services are as follows:

| | |
|---|----------------|
| <i>Insignificant Activity Determination (NAC 445B.288(4))</i> | <i>\$1,000</i> |
| <i>Applicability Determination (Section 2)</i> | <i>\$1,000</i> |
| <i>Confidentiality Request (NAC 445B.224)</i> | <i>\$1,000</i> |
| <i>Administrative Amendment (NAC 445B.319)</i> | <i>\$1,000</i> |
| <i>Class I Notification Of Authorized Change (NAC 445B.342)</i> | <i>\$1,000</i> |
| <i>Change of Location per Emission Unit (NAC 445B.331)</i> | <i>\$200</i> |

~~[(11)]7.~~ For the fiscal year beginning on July 1, 2009, and for each fiscal year thereafter, the Director shall:

~~(a) Increase the dollar per ton emissions rate that is used to calculate the annual fee based on emissions by an amount that is equal to 2 percent of the dollar per ton emissions rate for the immediately preceding fiscal year;~~

~~(b)~~(a) Increase the annual fee for maintenance of a stationary source by an amount that is equal to 2 percent of the annual fee for maintenance of the stationary source for the immediately preceding fiscal year; and

~~(e)~~(b) Increase each fee required by subsection ~~(10)~~5 by an amount that is equal to 2 percent of the fee for the immediately preceding fiscal year.

↪ The Director may, during any fiscal year, suspend an increase in a rate or fee specified in this subsection.

~~(12)~~8. The State Department of Conservation and Natural Resources shall collect all fees required pursuant to subsection ~~(s 5 and 7)~~3 not later than July 1 of each year.

~~(13)~~9. Except as otherwise provided in this subsection, the owner or operator of a source who does not pay his or her annual fee installments within 30 days after the date on which payment becomes due will be assessed a late penalty in the amount of 25 percent of the amount of the fees due. The late fee must be paid in addition to the annual fees. The late penalty set forth in this subsection does not apply if, at the time that the late fee would otherwise be assessed, the owner or operator is in negotiations with the Director concerning his or her annual fees.

~~(14)~~10. As used in this section, “prevention of significant deterioration permit” means an operating permit that is issued for a major source in accordance with the conditions set forth in 40 C.F.R. § 52.21.

11. The regulations in NAC 445B.327 become effective on January 1, 2020, or on the date when the Legislative Counsel files the final version approved by the Legislative Commission or Subcommittee to Review Regulations with the Secretary of State, if that occurs after January 1, 2020.